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March 7, 2023

VIA ECF

Hon. Ann Y. Shields
United States District Court
Eastern District of New York
Alphonse D'Amato Court Complex
100 Federal Plaza
Central Islip, NY 11722

Re: *United States Securities and Exchange Commission v. The NIR Group, LLC et al.*
Docket #: 2011- CV - 4723

Dear Magistrate Judge Shields:

The undersigned is presently the attorney of record for Corey S. Ribotsky, defendant in the referenced matters and his current wife, a non-party and FIVE FOR FIVE, INC., also, a non-party. I herein respond to plaintiff's counsel Maureen Peyton King, Esq's., correspondence dated March 7, 2023.

The status of the above referenced case can be summarized as follows: Defendant Ribotsky has filed for Bankruptcy protection under Chapter Seven of the United States Bankruptcy Code. That matter is presently pending before Hon. Alan S. Trust, US Bankruptcy Court Judge, Eastern District of New York, Docket No.: 8-23-70583, and Allan B. Mendelsohn, Esq., assigned Bankruptcy Trustee. In that matter, Mr. Ribotsky is represented by Ronald D. Weiss, Esq., of the Law office of Ronald D. Weiss, 734 Walt Whitman Rd, Suite 203, Melville, New York, 11747. In that matter, plaintiff in these matters was listed as one of defendant Ribotsky's creditors, just as the United States Internal Revenue Service, and New York State Department of Taxation, amongst others.

In that matter, plaintiff herein (US SEC) filed with the US Bankruptcy Court a motion asserting the very same speculations as to the operations of Mr. Ribotsky mind that plaintiff has now presented to this Honorable Court. FRE 701 prohibits witnesses from offering testimony stating an opinion on another person's state of mind or mental processes, such as intent or malice. Such an opinion is considered pure speculation. Likewise, here plaintiff's counsel's assertions that "*Ribotsky has twice filed for bankruptcy staying the depositions*" are purely speculative and serve no purpose other

than offer to this Honorable Court plaintiff's counsel's opinion concerning defendant Ribotsky's intent and/or assert that he has applied for bankruptcy with malice toward plaintiff. Accordingly, it would be improper for this Court to consider plaintiff's counsel's assertions as anything more than speculation, and these statements should not prejudice this Court with regard to defendant Ribotsky in any manner whatsoever. Plaintiff has interposed their motion in the Bankruptcy Court, and the next appearance in that matter is some type of hearing for the issues raised in that motion. Furthermore, plaintiff's counsel's opinion as to whether the Bankruptcy was filed in "good faith" is absolutely improper and presented to this Court without any basis of personal knowledge, fact or based upon any analysis of relevant law.

Respectfully Submitted,
s./Kevin Phillip Krupnick, Esq.
Attorney for Defendant
COREY S. RIBOTSKY

cc: Maureen Peyton King, Esq.
Attorney for Plaintiff
US Securities and Exchange Commission
Via ECF